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26 UNITED STATES DISTRICT COURT
27 NORTHERN DISTRICT OF CALIFORNIA
28 SAN FRANCISCO DIVISION

29 KEVIN KEITHLEY and TREN
30 TECHNOLOGIES HOLDINGS, LLC,

31 Plaintiffs,

32 v.

33 THE HOMESTORE.COM, INC., et al.,

34 Defendants.

CASE No. C03-04447 SI (EDL)

**STIPULATION AND [PROPOSED] ORDER
REGARDING STATISTICS**

INTRODUCTION

This stipulation concerns two sets of statistics that were cited in a pleading filed by Plaintiffs. One URL at which these statistics were located has been changed since this pleading was filed. Given this change of location, the parties to this stipulation provide copies of these statistics and their current URLs for the Court's convenience.

STIPULATION

IT IS HEREBY STIPULATED AS FOLLOWS:

(1) On October 24, 2008, Plaintiffs filed a pleading entitled Opposition to Defendants' Motion for Partial Summary Judgment Regarding Willfulness, Docket No. 805 ("Plaintiffs' Opposition");

(2) On page thirteen (13) of the above-referenced pleading, Plaintiffs cited to two (2) reports of reexaminations. The first report concerns the USPTO's *Performance and Accountability Report*, 2007, which is now available at <http://www.uspto.gov/web/offices/com/annual/2007/index.html>. Table 13A, specifically referenced in Plaintiffs' Opposition is available at http://www.uspto.gov/web/offices/com/annual/2007/50313a_table13a.html. A true and correct copy of Table 13 of this report is attached as Exhibit A to this stipulation. Plaintiffs also cited reexamination statistics. The URL of this report was subsequently changed. The report, now available at http://www.uspto.gov/web/patents/documents/ex_parte.pdf, is attached as Exhibit B to this stipulation; and

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(3) The parties stipulate that these statistics as found in the above-referenced URLs, also attached as Exhibits A and B hereto, may be considered by the Court in this case as the Court deems necessary as if they had been attached as exhibits to Plaintiffs' Opposition. The parties stipulate, however, that Defendants may challenge Exhibits A and B hereto as they normally would be entitled to do, including preserving all rights under the Federal Rules of Evidence including whether or not these reports were actually published by the USPTO.¹

Dated: October 30, 2008

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

By: _____/s/
Scott R. Mosko
Attorney for Plaintiffs
Kevin Keithley and TREN
Technologies Holdings, LLC\

SYNDER, MILLER & ORTON LLP

By: _____/s/
Bruce J. Rose
Attorneys for Defendants
Homestore.com, Inc;
The National Association of Realtors; and
The National Association of Home Builders of the
United States

I declare under penalty of perjury that Defendants' counsel has authorized me to file this stipulation with counsel's signature.

_____/s/
Scott R. Mosko

¹ Defendants take no position as to the authenticity of these documents or the statistics they purport to contain therein.

[PROPOSED] ORDER

The Court hereby enters into the record Exhibits A and B attached to the Parties' Stipulation, corresponding to the reports cited on page thirteen of Plaintiffs' Opposition to Defendants' Motion for Partial Summary Judgment Regarding Willfulness (Dkt. 805) filed October 24, 2008.

IT IS SO ORDERED



Dated:

Hon. Susan Illston
United States District Judge